



STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

P.O. Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

July 20, 2004

REGISTERED MAIL
RB 252 878 457 US

PacifiCorp
825 NE Multnomah, Suite 1000
Portland, OR 97232

Attn: Anna King

RE: Water Quality Certification Number 1181 for Corps Public Notice 200201213 to extend the boat ramp and replace two boat access floats at Speelyai Bay Park in Lake Merwin, in Cowlitz County, Washington

Dear Ms. King:

The public notice issued by U.S. Army Corps of Engineers on February 2, 2004, for proposed work in and near Lake Merwin, Cowlitz County, has been reviewed. On behalf of the State of Washington, we certify that the work proposed in the application for Department of Army permit, and Corps public notice complies with applicable provisions of Sections 301, 302, 303, 306 and 307 of the Clean Water Act, as amended, and other appropriate requirements of State law. This letter also serves as the State response to the Corps of Engineers.

- This certification concurrence is subject to the conditions contained in the enclosed Order.

If you have any questions, please contact Jo Sohneronne at (360) 407-6926. Written comments can be sent to her at the Department of Ecology, SWRO, PO Box 47775, Olympia, WA 98504-7775. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Perry J. Lund, Unit Supervisor
Southwest Regional Office
Shorelands and Environmental Assistance Program

PL:js
Enclosure

cc: David Martin, U.S. Army Corps of Engineers Seattle District
Lisa N. Renan, WSDFW
Cowlitz County Department of Building and Planning



IN THE MATTER OF GRANTING) ORDER #1181
A WATER QUALITY) U.S. Army Corps of Engineers Reference No. 200201213
CERTIFICATION TO) Extend the boat ramp and replace two boat access
PacifiCorp) floats at Speelyai Bay Park on Lake Merwin
in accordance with 33 U.S.C. 1341)
FWPCA § 401, RCW 90.48.260)
and WAC 173-201A)

TO: PacifiCorp
825 NE Multnomah, Suite 1000
Portland, OR 97232

ATTN: Anna King

On February 2, 2004, a public notice for a proposed water quality certification from the State of Washington was distributed for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401). The proposed project involves excavation of up to 100 cubic yards of substrate and placement of up to 900 cubic yards of rock, structural fill and concrete to extend a boat ramp and replace two boat access floats at Speelyai Bay Park and Campground on Lake Merwin. The site is located approximately 7.5 miles southwest of Cougar, in Cowlitz County, Washington.

AUTHORITIES:

In exercising authority under 33 U.S.C. 1341, 16 U.S.C. 1456, and RCW 90.48.260, Ecology has investigated this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. Sections 1311, 1312, 1313, 1316, and 1317 (FWPCA Sections 301, 302, 303, 306, and 307);
2. Conformance with the state water quality standards as provided for in Chapter 173-201A WAC authorized by 33 U.S.C. 1313 and by Chapter 90.48 RCW, and with other appropriate requirements of state law; and,
3. Conformance with the provision of using all known, available, and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

WATER QUALITY CERTIFICATION CONDITIONS:

In view of the foregoing and in accordance with 33 U.S.C. 1341, 90.48.260 RCW and Chapter 173-201A WAC, certification is granted to PacifiCorp subject to the following conditions:

A. No Further Impairment of Existing Water Quality

- A1. Lake Merwin (WRIA 27, Segment WA-27-9030) is a Lake Class water of the state. Certification of this proposal does not authorize PacifiCorp to exceed applicable state water quality standards (173-201A WAC) or sediment quality standards (Chapter 173-204 WAC). Water quality criteria contained in WAC 173-201A-030(1) and WAC 173-

201A-040 shall apply to this project, unless otherwise authorized by Ecology. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-110(3). Furthermore, nothing in this certification shall absolve PacifiCorp from liability for contamination and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.

B. Timing:

- B1. This Order is valid until all compliance requirements in this document have been met.
- B2. Work below the ordinary high water mark shall only occur between September 1 and October 31.

C. Notification Conditions:

- C1. PacifiCorp shall notify Ecology's Southwest Regional Office Federal Permit Coordinator at least fourteen (14) days prior to the start of work below the ordinary high water mark of Lake Merwin.
- C2. PacifiCorp's shall notify Ecology's Southwest Regional Office Federal Permit Coordinator within fourteen (14) days after completion of construction.
- C3. PacifiCorp shall ensure that all appropriate project engineers and contractors at the project site shall have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide Ecology a signed statement (see Attachment #A for an example) from each project engineer and contractor that they have read and understand the conditions of this Order and the above-referenced permits, plans, documents and approvals. These statements shall be provided to Ecology no less than seven (7) days before construction begins at the project or mitigation sites.

NOTE: These notifications shall include the applicant's name, project name, project location, the number of this Order, contact and contact's phone number.

D. Monitoring Conditions:

- D1. Construction monitoring: During and immediately after project construction, PacifiCorp or the contractor shall visibly monitor the area for distressed or dying fish. If water quality exceedances are observed outside the dilution zone, work shall cease immediately and the PacifiCorp or the contractor shall contact Ecology's Southwest Regional Spill Response Office at (360) 407-6300.
- D2. If the results of the monitoring shows that the water quality standards or project performance standards are not being met additional monitoring and mitigation maybe required.

E. Construction Conditions:

- E1. Construction Stormwater and Erosion Control: Work in or near waters of the state shall be done so that it minimizes turbidity, erosion, and other water quality impacts. Construction stormwater, sediment, and erosion control best management practices suitable to prevent exceedances of state water quality standards (e.g., hay bales,

detention areas, silt fences, etc.), shall be in place before starting clearing, filling, and grading work at the impact sites.

- E2. During clearing and filling at the various project sites, PacifiCorp shall take all necessary measures to minimize the alteration or disturbance of existing wetland and upland vegetation.
- E3. No existing shoreline material (i.e., logs, rocks, gravel cobbles, woody debris or other bed material) shall be relocated or used as bulkhead armor, as fill, or for any other purpose except that bed material located exactly where new pilings and footings are to be placed may be relocated.
- E4. Uncured concrete and concrete by-products shall be completely sealed off from the ordinary high water mark and wetted perimeter of Lake Merwin, totally contained using sealed forms or other leak-proof containment systems, and not allowed to contaminate or enter the ordinary high water mark or wetted perimeter of Lake Merwin.
- E5. All construction debris shall be properly disposed of upland so that it cannot enter a waterway or wetland or cause water quality degradation to state waters.
- E6. Wash water containing oils, grease, or other hazardous material resulting from wash down of equipment or working areas shall be contained for proper disposal, and shall not be discharged into state waters or storm drains.
- E7. Any wooden dock components, piling, pier support, and other materials composed of pressure treated wood shall be professionally and commercially produced and chemically fixed in accordance with all current best management practices as contained in the Western Wood Preservers Institute's latest edition of "The Best Management Practices for the Use of Treated Wood in Aquatic Environments."
- E8. No wood, metal, or concrete preservatives, paints, sealers, glues, epoxies, chemicals, or other substances harmful or toxic to fish or shell fish shall be applied to the pier system once it has been placed within or over the ordinary high water mark of Lake Merwin.
- E9. Clean Fill Criteria: PacifiCorp shall ensure that fill used for the proposed project does not contain toxic materials in toxic amounts.

F. Emergency/Contingency Measures:

- F1. In the event PacifiCorp is unable to comply with any of the permit terms and conditions due to any cause, PacifiCorp shall:
 - F1a. Immediately take action to stop, contain, and clean up unauthorized discharges or otherwise stop the violation and correct the problem.
 - F1b. Notify Ecology of the failure to comply. Spill events shall be reported immediately to Ecology's 24-hour spill response team at (360) 407-6300, and within 24 hours to Ecology's Southwest Regional Office Permit Coordinator at (360) 407-6926.

F1c. Submit a written report to Ecology within five days that describes the nature of the violation, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.

Compliance with this condition does not relieve PacifiCorp from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.

- F2. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters, including wetlands.
- F3. Toxic conditions resulting in distressed or dying fish (including dissolved oxygen levels below 5.0 mg/L) are not allowed. If these conditions occur, construction shall cease immediately and the PacifiCorp or the contractor shall contact Ecology's Southwest Regional Spill Response Office at (360) 407-6300.

G. General Conditions:

- G1. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources, **except** as specifically provided for in conditions of this Order.
- G2. This certification does not exempt PacifiCorp from, and is conditioned upon compliance with, other statutes and codes administered by federal, state, and local agencies.
- G3. PacifiCorp shall construct and operate the project in a manner consistent with the project description contained in the Public Notice for certification, or as otherwise approved by Ecology.
- G4. PacifiCorp shall reapply with an updated application if the information contained in the Public Notice is voided by subsequent submittals to the federal agency. Any future action at this project location, emergency or otherwise, that is not defined in the public notice, or has not been approved by Ecology, is not authorized by this Order. All future actions shall be coordinated with Ecology for approval prior to implementation of such action.
- G5. PacifiCorp shall provide access to the project site upon request by Ecology personnel for site inspections, monitoring, necessary data collection, or to ensure that conditions of this Order are being met.
- G6. Copies of this Order and all related permits, approvals, and documents shall be kept on the project site and readily available for reference by the project managers, construction managers and foremen, other employees and contractors of the PacifiCorp, and state agency personnel.
- G7. Ecology retains continuing jurisdiction to make modifications hereto through supplemental Order, if it appears necessary to further protect the public interest.
- G8. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications hereto through

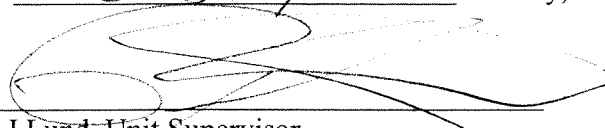
supplemental order, if additional impacts due to project construction or operation are identified (e.g., violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect the public interest.

- G9. Liability: Any person who fails to comply with any provision of this Order shall be liable for a penalty of up to ten thousand dollars (\$10,000) per violation for each day of continuing noncompliance.

Appeal Process:

Any person aggrieved by this Order may obtain review thereof by appeal. PacifiCorp can appeal up to 30 days after receipt of the permit, and all others can appeal up to 30 days from the postmarked date of the permit. The appeal must be sent to the Washington Pollution Control Hearings Board, P.O. Box 40903, Olympia, WA 98504-0903. Concurrently, a copy of the appeal must be sent to the Department of Ecology, Shorelands and Environmental Assistance Program, P.O. Box 47600, Olympia, WA 98504-7600. These procedures are consistent with the provisions of Chapter 43.21B RCW and the rules and regulations adopted thereunder.

Dated 20 July 2004 at Lacey, Washington



Perry J Lund, Unit Supervisor
Shorelands and Environmental Assistance Program
Department of Ecology – Southwest Regional Office

Attachment # A

Water Quality Certification Statement of Understanding

I, _____, state that, as an agent or contractor for construction of an extension to the boat ramp and replacement of two boat access floats at Speelyai Bay Park on Lake Merwin for PacifiCorp, I have read and understand the relevant conditions of Washington Department of Ecology Water Quality Certification Order #1181 and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

Signature

Date

Title

Company